

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT N. WASHINGTON,
Petitioner,

No. C 12-5930 SBA (PR)

ORDER OF DISMISSAL

v.

PEOPLE OF CALIFORNIA, et al.,
Respondents.

Petitioner, a state prisoner, filed this pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. He moves for leave to proceed in forma pauperis (IFP). Dkt. 6. He has also filed a motion for appointment of counsel. Dkt. 4.

Petitioner filed a previous petition for a writ of habeas corpus with this Court, challenging the same conviction and sentence. See Washington v. Lamarque, Case No. C 02-2146 MJJ (PR) (2002 petition). The Court denied the 2002 petition on the merits. Petitioner also filed two subsequent petitions, which were denied as successive. See Washington v. State of California, Case No. C 09-4355 SBA (PR); Washington v. Haviland, Case No. C 09-0978 SBA (PR).

DISCUSSION

The Court finds the present petition is a second or successive petition attacking the same conviction and sentence as Petitioner's 2002 petition and two subsequent petitions. 28 U.S.C. § 2244(a). A second or successive petition containing new claims may not be filed in the district court unless Petitioner first obtains from the United States Court of Appeals an order authorizing the district court to consider the petition. See 28 U.S.C. § 2244(b)(3)(A). Petitioner has not done so. Accordingly, the petition is DISMISSED without prejudice to filing a new habeas action if Petitioner obtains the necessary order.

CONCLUSION

For the foregoing reasons, the petition is DISMISSED pursuant to 28 U.S.C. § 2244(b). The Court has rendered its final decision on this matter; therefore, this Order TERMINATES Petitioner's case.

1 Based solely on Petitioner's lack of financial resources, his motion to proceed IFP is
2 GRANTED. Dkt. 6.

3 The Clerk of the Court shall terminate all other pending motions as moot, including his
4 motion for appointment of counsel (Dkt. 4), and close the file.

5 IT IS SO ORDERED.

6 DATED: 6/17/13


SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
4
5

6 ROBERT N WASHINGTON,
7 Plaintiff,

Case Number: CV12-05930 SBA

CERTIFICATE OF SERVICE

8 v.

9 PEOPLE OF CALIFORNIA et al,
10 Defendant.
11 _____/

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,
Northern District of California.

13 That on June 17, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies)
14 in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in
15 the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's
16 office.

17 Robert N. Washington P-72776
18 La Palma Correctional Center
La Palma Rd.
19 La Palma, AZ 85131

20 Dated: June 17, 2013

21 Richard W. Wieking, Clerk
By: Lisa Clark, Deputy Clerk
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